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Attorneys for Defendant Overstock.com, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Anthony Mitchell

Plaintiff,

v.

Ryan Cohen, an individual; Robinhood
Financial LLC, a Delaware Limited Liability
Company; Robinhood Securities, LLC, a
Delaware Limited Liability Company;
Robinhood Money, LLC, a Delaware Limited
Liability Company; The Depository Trust &
Clearing Corporation, a New York
Corporation; 20230930-DK-Butterfly-1, Inc., a
New York Corporation doing business as Bed
Bath & Beyond; Overstock.com, Inc., a
Delaware Corporation doing business as Bed
Bath & Beyond; RC Ventures LLC, a
Delaware Limited Liability Company; Sue E.
Gove, an individual,

Defendants.

CASE NO. 2:24-cv-01042-RFB-DJA

ORDER RE:

**MOTION FOR AN EXTENSION OF
TIME TO FILE DEFENDANT'S
RESPONSE TO COMPLAINT**

(FIRST REQUEST)

1 Defendant Overstock.com, Inc.¹ (“Overstock”), by and through its counsel, hereby moves
 2 the Court pursuant Federal Rule of Civil Procedure 6(b)(1) and Local Rule IA 6-1 for a 14-day
 3 extension of time for Overstock to respond to Plaintiff’s Complaint. This is the first motion for an
 4 extension of time to respond.

5 1. On June 26, 2024, Plaintiff, who is representing himself *pro se*, filed a Complaint
 6 against Overstock and eight other defendants, alleging he was harmed when he purchased
 7 Bed Bath & Beyond Inc. (“BBBY”) shares before BBBY filed for bankruptcy. (*See* Dkt. 7).

8 2. On August 7, 2024, Plaintiff attempted to serve Overstock by having the Complaint
 9 and a summons delivered to a Latham & Watkins LLP office (Dkt. 12). The Proof of Service says
 10 Plaintiff served the summons to a Latham & Watkins associate, but the process server’s description
 11 of the associate does not match his physical appearance. (*Id.*).

12 3. Overstock is evaluating its defenses and preparing an appropriate response to the
 13 Complaint. Overstock anticipates filing a motion to dismiss on several grounds, including:

- 14 a. insufficient service of process for failing to serve an agent of Overstock;
- 15 b. improper venue because the U.S. Bankruptcy Court for the District of
 16 New Jersey retains exclusive jurisdiction over Overstock’s purchase of
 17 intellectual property from BBBY. *See In re Bed Bath & Beyond, Inc., et al.*,
 18 Case No. 23-13359 (Bankr. D.N.J. June 28, 2023) (Docket No. 1117); and
- 19 c. failure to state a claim for which relief can be granted because Overstock has
 20 no successor liability with respect to BBBY pursuant to the
 21 Bankruptcy Court’s Sale Order (*id.*).

22 4. In order to properly investigate Plaintiff’s claims and prepare a response, Overstock
 23 requests additional time.

26 ¹ Plaintiff named Overstock as a defendant, referring to the company’s prior name. Effective
 27 November 6, 2023, Overstock.com, Inc. changed its corporate name to Beyond, Inc. (“Beyond”).
 28 To avoid any confusion, in this Motion Defendant refers to itself as Overstock, consistent with
 Plaintiff’s Complaint.

DATED this 28th day of August, 2024.

By: /s/ Emily A. Buchwald
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400 South 7th Street, Suite 300
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Attorneys for Defendant Overstock.com, Inc.

For good cause appearing therein, Defendant's motion (ECF No. 14) is GRANTED. Defendant Overstock.com, Inc. shall have until **September 11, 2024** within which to respond to the complaint.



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CERTIFICATE OF SERVICE

I certify that I am an employee of Pisanelli Bice PLLC, and that on the 28th day of August, 2024, I caused a true and correct copy of the foregoing **MOTION FOR AN EXTENSION OF TIME TO FILE DEFENDANT’S RESPONSE TO COMPLAINT (FIRST REQUEST)** to be electronically filed with the Clerk of the Court by using CM/ECF service and serving on all parties of record via U.S. Mail as follows:

Anthony Mitchell
412 Viewmont
Henderson, NV 89015

Pro Se

/s/ Kimberly Peets
An employee of Pisanelli Bice PLLC